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October 21, 1998

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Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

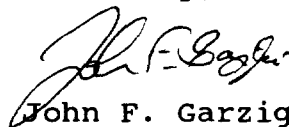
Re: Motion to Strike "Comments of  
Metro Broadcasters-Texas, Inc."  
Amendment of Section 73.202(b),  
FM Table of Allotments  
MM Docket No. 97-26; RM-8968; RM-9089; RM-9090  
(Detroit, Howe and Jacksboro, Texas,  
Antlers and Hugo, Oklahoma)  
MM Docket No. 97-91; RM-8854  
(Lewisville, Gainesville, Robinson,  
Corsicana, Jacksboro, and Mineral Wells, Texas)

Dear Ms. Salas:

Transmitted herewith on behalf of K95.5, Inc. is an original and four copies of its Motion to Strike "Comments of Metro Broadcasters-Texas, Inc." concerning the above-referenced allotment proceedings.

Should any questions arise concerning this matter, please contact this office directly.

Sincerely,



John F. Garziglia

Enclosure

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OCT 21 1998

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	MM Docket No. 97-26
Table of Allotments	)	RM-8968
FM Broadcast Stations.	)	RM-9089
(Detroit, Howe and Jacksboro,	)	RM-9090
Texas, Antlers and Hugo, Oklahoma)	)	
	)	
In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	MM Docket No. 97-91
Table of Allotments,	)	RM-8854
FM Broadcast Stations.	)	
(Lewisville, Gainesville, Robinson	)	
Corsicana, Jacksboro and Mineral	)	
Wells, Texas)	)	

To: Chief, Allocations Branch

**MOTION TO STRIKE "COMMENTS  
OF METRO BROADCASTERS-TEXAS, INC."**

K95.5, Inc., by its attorneys, pursuant to Section 1.41 of the Commission's rules, hereby moves to strike the October 13, 1998 "Comments of Metro Broadcasters-Texas, Inc." filed in this proceeding. In support thereof, the following is submitted:

1. Metro Broadcasters-Texas, Inc. has filed a pleading titled "Comments" in this proceeding subsequent to the issuance of the Commission's Report and Order, DA 98-1650, released August 13, 1998. The Commission's rules, however, do not contemplate the filing of such "Comments", and the submission is a wholly unauthorized pleading.

2. Further, the submission of Metro Broadcasters-Texas, Inc. contains substantive, supplementary information in the form

of a Declaration signed by a "John Mitchell" who identifies himself as a partner in Great Plains Radiocasting. This Declaration is submitted in contravention of Section 1.429(d) of the Commission's rules which states that no supplementary information may be filed after the deadline date existing 30 days after the date of the public notice of the Report and Order. The effective date of the public notice of the Report and Order was August 25, 1998. See Report and Order, 63 Fed. Reg. 45182, published August 25, 1998. Accordingly, for any substantive information submitted by Metro Broadcasters-Texas, Inc. to be timely (as a petition for reconsideration) in this proceeding, it had to have been filed by September 24, 1998. The submission of Metro Broadcasters-Texas, Inc. is grossly untimely and should not be considered by the Commission.

3. The Declaration submitted by Metro Broadcasters-Texas, Inc. is signed by a "John Mitchell", who identifies himself as a partner in Great Plains Radiocasting. Nowhere in the submission does Metro Broadcasters-Texas, Inc. explain why it is filing a Declaration signed by a partner in another entity, nor what connection that other entity has with Metro Broadcasters-Texas, Inc. Further, the "John Mitchell" signing the Declaration nowhere identifies himself in any respect by address or otherwise. The Commission may take notice that there are literally thousands of "John Mitchells" in the United States and it is an impossible task for either the Commission, or for the proponents in this proceeding, to assess the validity of any Declaration when it is

signed by an individual who fails to specifically identify himself.

4. Assuming that the Commission does consider the submission of Metro Broadcasters-Texas, Inc., it should be noted that the submission is really requesting the Commission to do extra and unnecessary work to simply reach the same result that has already been reached. At this point, the Commission has allotted FM Channel 294C2 to Detroit, Texas pursuant to a petition for rule making and comments containing an expression of interest. Metro Broadcasters-Texas, Inc. would have the Commission reverse its order allotting that channel, instruct that a new proceeding be commenced to allot that same channel, and once again have the Commission issue a report and order allotting FM Channel 294C2 to Detroit. Metro Broadcasters-Texas, Inc. does not advance any reasons, public interest or otherwise, why such a procedure is necessary or desirable. Indeed, the burden that this additional unnecessary proceeding would put on the heavy workload of the Commission is clearly contrary to the public interest.


5. Finally, neither Metro Broadcasters-Texas, Inc. nor Great Plains Radiocasting, the original proponent of the Detroit channel, has explained why for several years Great Plains Radiocasting, the proponent of the Detroit channel, has now suddenly attempted to withdraw its expression of interest in the Detroit channel. Simply put, something smells here.

WHEREFORE, for the reasons above, the October 13, 1998  
"Comments of Metro Broadcasters-Texas, Inc." should be stricken  
from this proceeding and should not be further considered.

Respectfully submitted,

**K95.5, INC.**

By: \_\_\_\_\_

  
John F. Garziglia  
Its Attorney

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(202) 296-0600

October 21, 1998

**CERTIFICATE OF SERVICE**

I, Tracey S. Westbrook, a secretary in the law firm of Pepper & Corazzini, L.L.P., do hereby certify that true copies of the foregoing "Motion to Strike 'Comments of Metro Broadcasters-Texas, Inc.'" were sent this 21st day of October, 1998 by U.S. first class mail, postage prepaid, to the following:

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\* Via hand delivery